PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FINANCE BILL

Third Sitting

Tuesday 9 June 2020

(Morning)

CONTENTS

PBC (Bill 114) 2019 - 2021

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not later than

Saturday 13 June 2020

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The Committee consisted of the following Members:

Chairs: Siobhain McDonagh, † Andrew Rosindell

† Badenoch, Kemi *(Exchequer Secretary to the Treasury)*
† Baldwin, Harriett *(West Worcestershire)* (Con)
† Browne, Anthony *(South Cambridgeshire)* (Con)
† Buchan, Felicity *(Kensington)* (Con)
† Cates, Miriam *(Penistone and Stocksbridge)* (Con)
† Flynn, Stephen *(Aberdeen South)* (SNP)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Millar, Robin *(Aberconwy)* (Con)
† Norman, Jesse *(Financial Secretary to the Treasury)*
† Oppong-Asare, Abena *(Erith and Thamesmead)* (Lab)
† Phillipson, Bridget *(Houghton and Sunderland South)* (Lab)
† Ribeiro-Addy, Bell *(Streatham)* (Lab)
† Rutley, David *(Lord Commissioner of Her Majesty's Treasury)*
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Streeting, Wes *(Ilford North)* (Lab)
Thewliss, Alison *(Glasgow Central)* (SNP)
† Williams, Craig *(Montgomeryshire)* (Con)

Chris Stanton, Kenneth Fox, Yohanna Sallberg, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 9 June 2020

(Morning)

[ANDREW ROSINDELL *in the Chair*]

Finance Bill

9.25 am

The Chair: Good morning. I remind Members that tea and coffee are not permitted in Committee meetings. Please would all Members ensure that mobile phones are turned off and switched to silent mode during Committee meetings?

The selection list for today's sitting is available in this Committee Room and written evidence received since the last sitting of the Committee, on Thursday, has been circulated by email to all members of the Committee.

The *Hansard* reporters would be most grateful if Members emailed any electronic copies of their speaking notes to hansardnotes@parliament.uk. Members should be aware that at 11 o'clock I will invite the Committee to observe a minute's silence in remembrance of George Floyd.

Clause 21

ANNUAL ALLOWANCE: TAPERED REDUCTION

Question proposed, That the clause stand part of the Bill.

The Financial Secretary to the Treasury (Jesse Norman): Thank you very much indeed, Mr Rosindell; it is a delight to see you in the Chair.

I start by saying that we are at the point in "The Pilgrim's Progress" where we are about to enter the slough of despond, and I apologise to all colleagues that the slough is a rather extended period of technical amendments. I can promise them that in due course we will enter the place of deliverance, although possibly not for some time.

Clause 21 raises both pensions tapered annual allowance thresholds by £90,000 each and also lowers the minimum annual allowance to £4,000. The Government provide tax relief on pension contributions. To give some background, in 2017-18 income tax and employer national insurance contributions relief cost £54 billion, of which 60% went to higher and additional-rate taxpayers.

The Government therefore impose limits on pensions tax relief. One of these limits—the tapered annual allowance—has affected some senior clinicians in the national health service and also some individuals in other public service workforces. This measure is the outcome of the Government's manifesto commitment to carry out a review of the impact of the tapered annual allowance on the NHS. That review built on another review of the effect on public service delivery more widely, which was announced last August. Roundtable discussions with public service stakeholders, including representatives of the health professions, were held as part of these reviews. These reviews concluded at the Budget on 11 March.

In the last tax year, in recognition of the impact that the tapered annual allowance was having on some doctors, NHS England announced a special arrangement, for 2019-20 only, in which doctors in England could use that arrangement to ensure that they would not be worse off as a result of taking on extra shifts. As health is a devolved matter, that special arrangement applied only to England, but we are aware that the Welsh and Scottish Governments also put similar arrangements in place during 2019-20 for NHS staff.

Raising the two thresholds at which the tapered annual allowance applies by £90,000 each is the quickest and most effective way to solve this issue for senior doctors and other clinicians. It delivers a tax solution, which has been the British Medical Association's primary request, and it comes into effect from 6 April, which is the beginning of the current tax year.

The changes made by clause 21 mean that no one with income below £200,000 will now be caught by the tapered annual allowance. The annual allowance will only begin to taper down for individuals who also have total income, including pension accrual, above £240,000. We estimate that this will take up to 96% of GPs and up to 98% of NHS consultants outside the scope of the tapered tax allowance, based on NHS earnings alone.

As this is a tax change, these measures will apply both to clinical and non-clinical staff across the whole UK, and they will apply in the same way to all workforces. These measures will also apply equally across public and private sector registered pension schemes. However, to ensure that the very highest earners pay their fair share of pension tax, the minimum level to which the annual allowance can taper down is reducing from £10,000 to £4,000 from the beginning of this tax year. This will affect only those with a total income, including pension accrual, of over £300,000. These measures will cost over £2 billion over the next five years.

The changes demonstrate that the Government are committed to ensuring that hard-working NHS staff do not find themselves reducing their work commitments as a result of the interaction of their pay, their pension and the tapered annual allowance tax regime. This meets the Government's commitment to allow doctors to spend as much time as possible treating patients, and supports vital public services while ensuring that the very highest earners pay their fair share of tax. I commend the clause to the Committee.

Bridget Phillipson (Houghton and Sunderland South) (Lab): It is a pleasure to welcome you back to the Chair this morning, Mr Rosindell.

The Opposition welcome the Government's efforts to resolve the issue. Hon. Members will know that the primary function of introducing the tapered reduction of the annual allowance in 2016 was to prevent tax avoidance in the private sector, but whatever the original intention of the tapered annual allowance threshold, its impact was not properly considered. The result has been damaging to our NHS: as the Financial Secretary says, it has led to a situation in which senior practitioners have refused to undertake extra shifts because of the tax impact, and in many cases have taken early retirement.

According to a British Medical Association survey, just under a third of doctors have reduced the number of hours they spend caring for patients because of actual or potential pension taxation changes, while 37% of those who have not yet reduced them plan to do so in the next year. That is perhaps unsurprising considering the nature of the tapered annual allowance: as the BMA sets out, it creates a tax cliff edge whereby doctors effectively pay to work. Although the Treasury and HMRC have repeatedly stated that tapering affects only people with earnings over £150,000, in defined benefit schemes it has created a tax cliff at the income threshold of £110,000, which means that those in defined benefit schemes may face additional tax charges of up to £13,500 if they exceed the tax threshold income by just £1, while some could face effective tax charges greater than 100%.

Of course, we should recognise that that is not the only factor contributing to the real problem of staff retention in the NHS. Aside from the impact of coronavirus, hospitals and A&Es have been overstretched for years, increasing numbers of people are waiting too long for operations, and key performance targets are being missed month after month. We also face a chronic lack of family doctors; as the Nuffield Trust has highlighted, we have seen the first sustained drop in GP numbers in 50 years, which adds to the pressures on remaining staff. The problem is particularly acute in certain parts of the country: in Sunderland and the wider north-east, we can see the same picture at a much bigger level, where we face a real challenge to recruit and retain family doctors.

The doctors I speak to are always striving to do the best they possibly can in challenging circumstances, but we must acknowledge that the stress they have been placed under, due to the underfunding and neglect of our NHS by this Government, has made the situation even worse. The pension situation that many have faced since 2016 has no doubt proved to be the final straw, as doctors have opted not to take shifts, or to retire early. As we have seen, that is complicating efforts to retain such important NHS staff.

The situation would be unsustainable even if we were not facing the impact of coronavirus, but the additional pressures on doctors, many of whom will have taken on extra shifts, make resolving the issue more pressing than ever. All of us owe a debt of gratitude to those NHS staff who have put themselves on the frontline, in harm's way, to do all they can in the national interest at this very difficult time for our country.

It is important to note that the problem is not exclusive to staff within the NHS; the annual allowance is a problem in other defined benefit schemes, including for the armed forces. As the Forces Pension Society states,

"in 2018 almost 4,000 serving military personnel, including those in non-commissioned ranks, received notification that they might have exceeded their annual allowance limit and for many a significant tax charge followed—well ahead of receiving any of the future benefit on which the tax is levied."

The society argues that

"unless action is taken, there is a real risk to retention and operational effectiveness"—

a concern also highlighted by the Ministry of Defence.

We all owe it to those in our public services and our armed forces, who do so much to care for us, protect us and keep our country safe, to make sure that they are treated fairly and can plan effectively for their pension and later life. It is clear that that has not happened as a result of the changes implemented by the Government in 2016. The proposed measure does at least promise to address the issue in part and in the short term and the BMA has stated that the vast majority of doctors are now removed from the effect of the taper. However, there are still concerns, and I hope the Minister will be able to respond to them.

The proposed tax change would take effect only from 6 April 2020; as the Minister will know, the additional pressures created by covid-19 began before that point. As the Chartered Institute of Taxation has identified, that means that doctors who took on extra shifts during this period face the risk of being hit by higher tax bills later. What consideration has been given to the issue of medical staff who have made extra efforts during this crisis, but before 6 April 2020? Has any analysis been undertaken of the scale of the problem and will any measures be necessary to address it?

Given that the purpose of the clause is to reduce and reverse the trends with doctors not taking shifts and retiring early, I would also welcome confirmation from the Minister that the Government intend to monitor the impact of the clause on an ongoing basis, to ensure that it is having its intended effect.

We have concerns more broadly because, as the Minister said, the proposed change would benefit all high earners, not just NHS staff and those in our armed forces that the clause ostensibly targets. Monitoring the effect on taxation revenue will also be critical, because the Opposition want to see fairness right across the system. Although the measure seems to address the issue in the short term, the Minister will be aware of the wider concerns about whether the tapered annual allowance is appropriate in general.

The Office of Tax Simplification has suggested removing the annual allowance from defined benefit pension schemes, and that move was supported by the BMA. As it said in its response to the 2020 Budget, although it welcomed the Government's proposal in part, problems remained, given that many doctors with incomes far below the new threshold will face tax bills as a result of exceeding the standard annual allowance, which remains at £40,000. That can happen simply following a modest rise in pensionable pay—for example, when receiving a pay increment, taking on a leadership role or being recognised for clinical excellence. The BMA has added that there is no change to the lifetime allowance and many doctors will still need to consider taking early retirement.

The Minister will no doubt be aware that the former Pensions Minister, Baroness Altmann, has similarly warned that just raising the threshold of earnings at which the tapered annual allowance starts will certainly not solve the underlying problem. She has called for fundamental reform to provide those in defined benefit schemes with greater certainty into the future. The Opposition support that call for broader consideration of the issue.

All that brings us to wider considerations around pension tax relief and whether the system as it operates works as well as it could. The Chartered Institute of Taxation, among others, has said that a review of how tax relief applies to pension savings should be considered, given that the solution that the Government have presented here has only been achieved at significant cost to the Exchequer and to the benefit of many higher-earning people, beyond our medical and armed forces staff. Will the Government consider such a review and think more widely about creating a simpler, fairer and more sustainable pensions system?

Jesse Norman: I thank the hon. Lady for her remarks and for welcoming these measures. She expresses what I know will be the universal sentiment in this Committee:

[Jesse Norman]

a sense of profound gratitude to the NHS for the astonishing way in which it and all the public services around them have responded to the crisis posed by coronavirus. I certainly echo that.

The hon. Lady talked about underfunding of the NHS. I really do not recognise that at all: the NHS has been very well funded, with continuous above-inflation funding settlements. In relation to coronavirus alone, public services have received over £16 billion, the NHS central among them. However, that only underlines the point that extraordinary work was being done by the NHS before, and it throws into greater relief how flexibly, energetically and effectively it has responded to the coronavirus pandemic. I think that shows the inner resilience of the organisation.

The hon. Lady asked about people somehow being deterred from taking extra shifts in the NHS. She will be aware that NHS England put in place its own measures for last year, and we understand that parallel measures were implemented in Scotland and Wales.

The effect of the change, which begins in April, is to give a sufficiently generous increase in the annual allowance thresholds so that up to 96% of GPs and up to 98% of senior medical staff will be out of scope of the tapered annual allowance as regards their NHS earnings. It is interesting to note that, as the hon. Lady rightly acknowledges, that has been widely recognised by the key institutions. The BMA said:

> "The vast majority of doctors are now removed from the effect of the taper and will no longer be in a situation where they are 'paying to go to work'"

as they see it. NHS Employers said:

> "Employers across the NHS will welcome this significant step in reforming pensions taxation."

That is all to the good.

The hon. Lady asked whether we will monitor the clause's impact. The Treasury will of course monitor it as we do the effects of taxation across the piece. This reform will retain a certain political currency and therefore, I think, support and enthusiasm across the Committee. She also asked about fairness across public services. She will be aware that one of the benefits of a tax reform is that it offers fair treatment across those public services, irrespective of how people work.

The question of whether the allowance taper should be removed has been scouted by some. Of course, unless it was replaced by some other approach, it would have the effect of there being no corresponding reduction in the capacity to add pensions relief. The absence of a taper would therefore create precisely the cliff edge that the hon. Lady warned against.

The hon. Lady mentioned the idea of a review. She will be aware that the Treasury had a review only a short number of years ago, which was inconclusive. We continue to reflect on this complex and difficult area of taxation and will do so as we ponder the future fiscal effects. With that in mind, I hope the Committee will agree that the clause should stand part of the Bill.

Question put and agreed to

Clause 21 accordingly ordered to stand part of the Bill.

Clause 22

Entrepreneurs' relief

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

That schedule 2 be the Second schedule to the Bill.

New clause 8—*Review of changes to entrepreneurs' relief*—

'(1) The Chancellor of the Exchequer must review the impact on investment in parts of the United Kingdom and regions of England of the changes made to entrepreneur's relief by section 22 and Schedule 2 of this Act and lay a report of that review before the House of Commons within six months of the passing of this Act.

(2) A review under this section must consider the effects of the provisions on—

(a) business investment,

(b) employment, and

(c) productivity.

(3) In this section—

"parts of the United Kingdom" means—

(a) England,

(b) Scotland,

(c) Wales, and

(d) Northern Ireland;

and "regions of England" has the same meaning as that used by the Office for National Statistics.'.

This new clause would require a review of the impact on investment of the changes made to entrepreneurs' relief.

Jesse Norman: The clause and schedule 22 rename entrepreneurs' relief as "business asset disposal relief" and reduce the lifetime limit for gains eligible for relief so that from 11 March 2020 the relief can be claimed on gains of up to £1 million. The purpose of renaming the relief is simply to reflect its function and purpose more accurately.

The relief offers a reduced rate of 10% capital gains tax on disposal of eligible business assets. Evidence shows that for some people—indeed, quite a few people—the relief has been a tax planning tool, helping some of the richest people in society to pay less tax rather than discharging its purpose of incentivising entrepreneurship and enterprising business activity. Last year, three quarters of the relief's cost was for claims made by just 6,000 people disposing of assets with gains of over £1 million. The reform ensures that the Government can more sustainably support small businesspeople with up to £100,000 capital gains tax relief available over their lifetime.

The clause also makes special provisions for disposals entered into before 11 March 2020—that is to say, Budget day—that have not yet been completed. The provisions ensure that such people can still use the previous lifetime limit, but only where the disposal has not been artificially structured for the purpose of securing a tax advantage. It is therefore an anti-forestalling rule, with the rules ensuring that everyone pays their fair share of tax.

The previous lifetime limit of £10 million was an unsustainable degree of support for those less in need of it, and, as I have said, did not discharge the purpose of supporting entrepreneurship as it should have done.

The new £1 million lifetime limit is far more sustainable and better targets the people who it was intended should benefit from the relief.

9.45 am

The changes made by clause 22 will raise an estimated £6 billion over the next five years by reducing the lifetime limit from £10 million to £1 million. The rules also mean that the new lifetime limit must include the value of previous claims for relief for qualifying gains. This change will significantly reduce the reliefs cost while affecting just 17% of qualifying taxpayers.

New clause 8, proposed by the SNP, would require the Chancellor of the Exchequer to review the impact of clause 22 and schedule 2 amendments to capital gains tax legislation within six months of passing the Finance Act. Specifically, it would require the Chancellor to review the impact on business investment, employment and productivity in the constituent nations and English regions of the United Kingdom.

I want to highlight that the Government have already conducted an internal review of this relief, building on the 2017 HMRC-commissioned independent research. The review considered the distributional effects and benefits of this relief against its cost, to understand better the targeting of the relief. This reform is strongly influenced and informed by that analysis and ensures that the majority of entrepreneurs are unaffected.

Furthermore, the effects of the changes to the relief will not be visible within six months' time. As with all tax reliefs, we will continue to review and monitor the effects of this change as standard. I therefore encourage the Committee not to accept the new clause. The Government believe in supporting entrepreneurs and small-business people. Despite calls to abolish the relief, we are introducing sensible reforms designed to ensure that the Government can continue sustainably to encourage the majority of small-business owners. I commend the clause and schedule to the Committee.

Bridget Phillipson: I begin by acknowledging that the action on the relief is welcome, even if we believe it is overdue and could go further. The Minister might be familiar with the Resolution Foundation's description of the entrepreneurs' relief as "the worst tax break" that is, "expensive, ineffective, and regressive". According to HMRC, it cost an estimated £2.1 billion in 2019-20 alone. Before responsibility is laid at the door of the previous Labour Government for introducing the measure, I should argue that many of the undesirable effects have followed changes made post-2010. I thank the House of Commons Library for providing me with a timeline of the changes made to entrepreneurs' relief since its introduction in 2008, which has allowed me to illustrate that point.

The relief was introduced by the then Chancellor, Alistair Darling, in 2008 with the goal of promoting entrepreneurship in the UK and making us a world leader in the field by encouraging business owners selling up to reinvest the money into new businesses. The 2008 Budget established that the relief would set an effective tax rate of 10% for up to the first £1 million of gains made over a lifetime, which was increased to £2 million from April 2010.

In the coalition Government's first Budget on 22 June, the then Chancellor, George Osborne, announced that the lifetime limit for entrepreneurs' relief would be set at £5 million, while the single flat rate of capital gains tax would be replaced with the higher 28% rate paid by higher rate taxpayers. As part of the Government's second Budget in March 2011, it was announced that the lifetime limit for entrepreneurs' relief would be increased to £10 million from 6 April 2011.

When the relief was introduced by the Labour Government, the estimated cost was £200 million a year: the generous uprating of the lifetime limit under the coalition Government has undoubtedly contributed to its ballooning cost. Perhaps the cost would be justifiable if it had been shown to have a positive impact in boosting investment in jobs across our country, but there is no evidence to suggest that that has been the case.

The Institute for Fiscal Studies has calculated that, in 2017-18, three quarters of the £2.3 billion cost of entrepreneurs' relief benefited only 5,000 individuals, with an average tax saving among that group of £350,000. The Resolution Foundation highlights HMRC data that shows that 82% of those who benefited have been male and in their late 50s, and that the majority of capital gains tax revenue is concentrated in London and the south-east. The 2017 HMRC evaluation found that only 8% of people claiming entrepreneurs' relief in the previous five years had said that it influenced their investment decision making. That demonstrates the extent to which the relief was not working as intended, and the necessity of Government action.

Putting aside whether the approach taken by the Government is the right one, there are some technical issues that I hope the Minister can clarify. The Chartered Institute of Taxation has expressed a degree of surprise at the lack of transitional provisions, given that the capital gains tax changes are retroactive, affecting gains that have already accrued but not yet been realised and investment decisions that have already been made. The institute has also expressed concerns about the strength of the anti-forestalling measures for what is a change of policy rather than anti-avoidance legislation, saying it regards one aspect of the measures as open to challenge as retrospective taxation because the Government are changing the tax effect of an action after the right to take that action has arisen. Having sought legal consultation, it fears that may even be a breach of human rights. It has suggested changing the clause to allow a shareholder whose shareholding no longer qualified for entrepreneurs' relief immediately after an exchange of shares to elect to retain the £10 million limit. Will the Minister tell us what consideration the Treasury has given to the issue?

What consideration have the Government given to going further than the measures contained in this clause? As I have sought to set out to the Committee, entrepreneurs' relief is costly and is failing to achieve its objective. The Minister is aware, no doubt, that any number of organisations are critical of maintaining it in any form, although the criticism is not unanimous. The Federation of Small Businesses has voiced its concerns and believes that removing entrepreneurs' relief would disincentivise employee ownership by reducing the value of businesses as they are handed over. Can the Minister say anything by way of reassurance to the Federation of Small Businesses, and does he agree with its assessment?

Many others remain critical and that is where the majority of opinion rests. The Institute for Fiscal Studies has stated that the £1 million relief in the clause is still

[Bridget Phillipson]

too generous. The Association of Accounting Technicians says it is disappointing that the Government have failed to scrap it altogether, highlighting an overwhelming body of evidence from focus groups, HMRC-commissioned research, the Office of Tax Simplification, the National Audit Office and others,

"which indicates that the relief does not achieve its policy objectives, that it's extremely expensive, poorly targeted and ultimately ineffective."

In the light of that, will the Minister set out for the Committee why the Government have not gone further in this area?

On the new clause, which was tabled by the Scottish National party, we understand the rationale for a review of the measure's impact on business and on different parts of the UK, but as I have sought to set out to the Committee, there is a strong body of evidence of the entrepreneurs' relief not working effectively. I would appreciate a better understanding of the impact the amendment seeks to achieve. We do not oppose the new clause; we just think it could go further.

Let me make it clear that a more progressive approach to entrepreneurs' relief should not be confused with being anti-business. As my hon. Friend the Member for Ilford North set out last week in Committee, Labour Members support measures to promote investment and entrepreneurialism and to support the small businesses that are the backbone of our community and that are doing so much at a difficult time to try and keep people in work, to support our communities and to contribute to our country. The Government need to bring forward measures to ensure that tax reliefs work effectively. The evidence suggests that the entrepreneurs' relief, as conceived and delivered over the past decade, does not work.

There is a wider issue here that I hope we can revisit in later stages of the debate regarding the Government's efforts to monitor the effect of tax reliefs such as entrepreneurs' relief. The National Audit Office's excellent recent report on tax reliefs shows that the Government are not reporting costs on over two thirds of them and that HMRC did not know whether most tax reliefs offered value for money. I believe the Public Accounts Committee will be taking evidence on this very shortly and publishing its report on the work of the National Audit Office in considering this important issue. We on the Opposition Benches will be following that discussion carefully, because it seems incredible that the Government do not have a proper grip on that area, where there is a real problem around value for money and whether the information provided to Parliament is sufficient, so we can understand whether tax reliefs are having the outcome intended by Government and whether fairness is built into the system.

We will continue to argue for a broad review of tax reliefs and continue to encourage Ministers to adopt the policy to determine exactly who is benefiting from the hundreds of tax reliefs that exist, whether they are fair, whether they represent good value for money, whether we can be confident that they are securing the policy outcomes as originally intended, and that the Government should legislate to make the system fairer as a whole.

Stephen Flynn (Aberdeen South) (SNP): This is my first experience of a Finance Bill Committee—indeed, I think it is the first time we have met, Mr Rosindell, and I look forward to serving under your chairmanship. Dare I say that our new clause is constructive? That is the manner I am starting in. I would like the Government to change their stance a bit and look at the wider picture.

Before the Budget, it was well known to all of us in the public sphere that the Government were considering entirely scrapping entrepreneurs' relief. We read a number of comments in the press and the public domain about Conservative Back Benchers being unhappy with that move because they felt it would stifle investment. Ultimately, the Chancellor did not scrap entrepreneurs' relief but simply took it back to the level it was at when the Labour party introduced it in 2008, reducing it from £10 million to £1 million. We need to know what the Government's long-term direction of travel is. We cannot be driven by a rebellion on the Government Back Benches. If the Government do not feel that entrepreneurs' relief is beneficial, they should make that clear.

The Minister said that the Government have conducted a review, and indeed they have, but it was an internal review; as far as I am aware, it is not in the public domain. They are more than welcome to put it into the public domain, or they could agree to our new clause. The hon. Member for Houghton and Sunderland South talked about what we are could achieve. It is important that we have that review so that we all know where entrepreneurs' relief is going to be in the coming years.

As I say, this is a constructive suggestion. It is based not just on our interpretation of the situation, but on the evidence. The IFS believes that entrepreneurs' relief is poorly targeted; the FSB, on the other hand, is broadly supportive; and the Chartered Institute of Taxation believes that a public consultation on objectives and efficacy is necessary. There is a broad range of views about this policy, so the time has come for the Government to undertake a review in the public domain so that we all understand the direction of travel and know where they seek to go. Hopefully, that will inform us all a bit more about the position. As I say, this is a constructive suggestion, and I hope the Government will change their stance.

Jesse Norman: I thank the hon. Members for Houghton and Sunderland South and for Aberdeen South very much for their comments. They raise a number of important points.

It is certainly true that this relief has attracted widespread criticism from different interested and expert bodies; the hon. Lady is absolutely right to point that out. It is important to note that the Government have tried to strike a balance. An outright abolition might have had the effect of penalising a lot of entrepreneurial activity, undertaken in good faith up to the level that has been determined. That would have been, in the Government's view, an overreaction to the situation. Therefore, we have tried to strike a balance by trying to keep the vast majority of entrepreneurial activity that is protected in place while cutting back on aspects that are ineffective or regressive.

It is interesting, as has been noted by Opposition Members, that alongside widespread concern there has also been notable recognition of the importance of that aspect of the relief that I have highlighted from the Federation of Small Businesses. I note that the national chairman described this as a

"sensible compromise on Entrepreneurs' Relief", in which

"everyday entrepreneurs will be pleased to hear the Chancellor say that he has listened to FSB".

10 am

Expert comment has also highlighted the extent to which the previous relief was being exploited by advisers, who were using the tax break to encourage activity that had nothing to do with the creation of entrepreneurial benefit. We fully recognise that. In striking that balance, we are trying to ensure that the relief plays its part alongside a wide range of other Government measures to support entrepreneurs and new businesses. Those include start-up loans, support for businesses conducting R&D and the new structures and buildings allowance that we will discuss in due course.

To pick up a point that the hon. Lady mentioned, this has been an expensive relief with, in the Treasury's view, inadequate public gain, but when we get to R&D tax credits, which are also expensive reliefs, there the judgment has been that although they are expensive, there is considerable public gain. I will come to that in due course, but there is a contrast to be noted there.

The question is also raised whether we should have acted more decisively. I have highlighted that that would have had the effect of penalising many entrepreneurs who entered into these arrangements in good faith and would have had all their gains cancelled out. At the same time, it was necessary to put in anti-forestalling measures, because as soon as the fact of a change becomes clear, there is enormous potential scope for abuse and avoidance. The hon. Member for Aberdeen South was absolutely right to raise the extent to which this was known to be a bad relief in advance and some people might have taken advantage of that. That provided an additional reason not to include transitional measures, but to act decisively when we did act.

I am sympathetic to the point that the hon. Member for Houghton and Sunderland South makes about a more structured approach to the analysis of tax reliefs. That point is well made. My answer to her comments about the IFS's concerns about the residual relief is that there is always scope for further reform at future fiscal events.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Schedule 2 agreed to.

Clause 23

RELIEF ON DISPOSAL OF PRIVATE RESIDENCE

Question proposed, That the clause stand part of the Bill.

Jesse Norman: We continue to stride boldly through the slough of despond. Here we come to the reform of the capital gains tax private residence relief ancillary reliefs. The clause makes changes to capital gains tax private residence relief where individuals have more than one residence, reducing the final period exemption from 18 months to nine months and reforming lettings relief so that that relief only applies where the owner shares occupancy with a tenant.

The clause also makes several other minor changes to make the private residence relief rules fairer. The Government are committed to keeping family homes out of capital gains tax, and private residence relief will still be available for the entire time a property is lived in. However, ancillary reliefs mean that in some circumstances people can accrue relief on two or more properties simultaneously. The reforms make private residence relief fairer by better targeting relief at owner-occupiers.

The final period exemption currently relieves the last 18 months of ownership of a main residence or former main residence from capital gains tax. This provides relief as people go through the process of selling their home, but it allows people to accrue relief on two properties simultaneously. From April 2020, the exemption will be reduced to nine months. The 36-month exemption for those who are disabled or are in a care home will remain.

Lettings relief is available when a property that was someone's previous main residence is wholly or partly let out. This can extend the benefit of relief by up to £40,000 for an individual and £80,000 for a couple, while they are also accruing relief on their current main residence. In order to better target the relief at owner-occupiers, from April 2020 lettings relief will only be available in cases of shared occupancy. The armed forces future accommodation model is also a source of concern. We want to be sure that the clause will extend the benefit of employer-provided accommodation relief to those service personnel who live in privately rented accommodation under that new model.

The Government are also legislating on two extra existing statutory concessions. The first applies when an individual has more than one residence, but only one has any real capital value. This concession extends the time period for nominating the individual's main residence. The second allows 24 months of relief where, for specific reasons, a person is unable to occupy a new home for use as their main residence. There is also a change to ensure that, when spouses or civil partners agree to transfer shares in a residential property between themselves, the receiving spouse or civil partner will inherit the transferring spouse's past use of the property, no matter the use of the property at the time of transfer. This prevents unfair outcomes arising in certain cases.

The Government are committed to keeping family homes out of capital gains tax, through private residence relief. However, the current availability of lettings relief, and the 18-month final period exemption, can mean that people accrue relief on two or more properties simultaneously. These reforms address those concerns and make private residence relief fairer, by better targeting it at owner-occupiers. I therefore commend the clause to the Committee.

Bridget Phillipson: The objectives behind the clause seem well intentioned, but the Minister will no doubt be aware of the severe impact of covid-19 on the housing market, as referenced by many stakeholders—a point which I should be grateful if he would address. According to the Chartered Institute of Taxation, the evidential basis for the reduction in the final period exemption was based on an average selling time—before the current pandemic—of approximately four and a half months, and it is concerned that this evidence base may be undermined by the effects of covid-19.

The Minister will be aware of his Government's own advice, which lasted until 13 May, that physical viewings of homes were not permitted, and as such, that the

[Bridget Phillipson]

home-buying process would take longer, with people advised to delay moving into a new house. While there is updated advice, there are still clearly restrictions that will slow down the process of buying a new home, and wider practical difficulties in this area when it comes to estate agents, banks processing payments and the wider conveyancing system.

The Chartered Institute of Taxation referred to research by Zoopla, conducted between 12 and 19 May, which found that 41% of would-be home movers across Britain had put their property plans on hold in light of market uncertainty, loss of income and lower confidence in their future finances, with property inquiries reported to be more than 50% down on pre-lockdown levels. Given that ongoing uncertainty, it is increasingly likely that it may take longer than nine months for some of those affected by this provision to sell their property, given the deterrent impact of covid-19 and the lockdown on potential buyers, as well as all the practical difficulties for buyers, which I am sure we appreciate. That could leave sellers with an unexpected tax liability when a property takes longer than nine months to sell. Many stakeholders consulted on this legislation believe that the fairest way to resolve the issue is to defer the introduction of the final period exemption, so as not to burden some sellers with an unprecedented tax liability.

In their consultation with stakeholders from July 2019, the Government responded to worries about the nine-month period exemption being too short by saying that

"a 9 month final period exemption strikes the right balance between being long enough to provide relief whilst they go through the process of selling their home, but not so long that they are able to accrue large amounts of relief on two properties simultaneously, or on homes that are no longer used as their main residence."

I will not seek to blame the Government for not predicting at that point the impact of a global pandemic, but we are living through some very difficult times. Has any further consideration been given to the timing of the measures contained in the clause? Given the pressures on the housing market, does he still regard them as appropriate and realistic? Is the Treasury considering the impact more broadly?

Putting the coronavirus aside, concerns have been raised that the clause runs in contradiction to the parliamentary convention on retrospective taxation, whereby retrospection is permissible only when dealing with unacceptable avoidance schemes. The clause is about changing long-standing reliefs rather than countering avoidance, and the Institute of Chartered Accountants in England and Wales has highlighted that the clause is retrospective. It also argues that it would be simpler for taxpayers if the measures were delayed until the start of the next tax year. I am sure the Minister has given consideration to that point, and I am keen to hear his views on the topic.

Another point raised by the Chartered Institute of Taxation is that the new rules must be well communicated. Their introduction coincides with the new 30-day time limit running from the date of completion to the reporting and payment of capital gains tax, meaning that there is now much less time to establish capital gains tax liability. What are the Government doing to communicate such changes, so that they are well understood?

The changes as a whole are projected to raise £50 million for the Government in this tax year and £120 million next year. Given the current situation in the housing market, I shall be interested to hear the Minister's views on whether any change has been made to any projections in this area. It is vital that the Government can raise funding for our vital public services, but in the grand scheme of things, those seem like relatively modest sums. Although I want to ensure that our public services have the funding they need to get through this crisis, I am sure the Government would not seek to disadvantage those who, through no fault of their own, find themselves in a very difficult situation owing to the pandemic.

Those are the only comments that I seek to offer on the clause. I shall be grateful for a response from the Minister.

Jesse Norman: I thank the hon. Lady for her comments. She raises the question of retrospectivity. We do not regard the changes as retrospective. Capital gains tax is due only when a disposal is made, and taxpayers have 18 months' notice of the changes. They have therefore had plenty of time to rearrange their affairs—for example, by selling property under the old rules if they had wished to do so. It is important to remember that any private residence relief accrued from periods when the property was lived in as a main home is retained.

I am glad that the hon. Lady does not blame the Government for failing to predict the pandemic. That would be a very widespread source of blame; few people across the world could be exculpated from that. She also raised the question of the effect of covid-19. It is worth saying that, as she highlights, the nine-month exemption is based on evidence that the average selling time was four and a half months, and the suggestion is therefore that nine months is not long enough. I note her point and will take it away with me from this sitting; I thank her for that. It still leaves the average significantly short of nine months. It is worth pointing out that, if people are taken over that level, they will still likely pay very little, if any, capital gains tax, because the annual exempt amount, which has just been increased to £12,300, keeps small gains out of CGT. If someone was running over by a month, it would have to be an enormous gain in order to breach the annual limit.

As I said, there are no changes to the wider 36-month exemption that is available to disabled people and to those in care homes. The Government think the CGT allowance provides an additional safeguard in case there are circumstances in which people might inadvertently run over time.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

CORPORATE CAPITAL LOSSES

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

That schedule 3 be the Third schedule to the Bill.

Clause 25 stand part.

New clause 9—*Review of changes to capital allowances*—

"(1) The Chancellor of the Exchequer must review the effect of the changes to chargeable gains with respect to corporate capital losses in section 24 and Schedule 3 of this Act in each part of the United Kingdom and each region of England and lay a report of that review before the House of Commons within two months of the passing of this Act.

(2) A review under this section must consider the effects of the changes on—

(a) business investment

(b) employment, and

(c) productivity.

(3) A review under this section must consider the effects in the current and each of the subsequent four financial years.

(4) The review must also estimate the effects on the changes in the event of each of the following—

(a) the UK leaves the EU withdrawal transition period without a negotiated comprehensive free trade agreement,

(b) the UK leaves the EU withdrawal transition period with a negotiated agreement, and remains in the single market and customs union, or

(c) the UK leaves the EU withdrawal transition period with a negotiated comprehensive free trade agreement, and does not remain in the single market and customs union.

(5) The review must also estimate the effects on the changes if the UK signs a free trade agreement with the United States.

(6) In this section—

'parts of the United Kingdom' means—

(a) England,

(b) Scotland,

(c) Wales, and

(d) Northern Ireland;

and 'regions of England' has the same meaning as that used by the Office for National Statistics."

This new clause requires a review of the impact on investment, employment and productivity of the changes to capital allowance over time; in the event of a free trade agreement with the USA; and in the event of leaving the EU without a trade agreement, with an agreement to retain single market and customs union membership, or with a trade agreement that does not include single market and customs union membership.

10.15 am

Jesse Norman: We are 50 minutes in and making very good progress, so thank you for your leadership from the Chair, Mr Rosindell.

Clauses 24 and 25 and schedule 3 make changes to UK corporation tax loss relief rules to introduce the corporate capital loss restriction that was announced at Budget 2018. At that Budget, the Government announced changes to the treatment of capital losses for corporation tax purposes. Currently, if an asset is sold at a loss, that capital loss can be carried forward and offset against up to 100% of the capital gains in future periods. In order to ensure that large companies pay corporation tax when they make significant capital gains, the Government will restrict the use of companies' historical capital losses to 50% of the amount of annual capital gains from 1 April 2020. This policy builds on previous reforms to corporation tax loss relief, and brings the treatment of capital losses into line with the treatment of income losses.

The changes made by clause 24 will apply a 50% reduction to the amount of carried-forward capital losses that a company can set against chargeable gains that arise in a later accounting period. Various other changes that are required to deliver or support that loss restriction are also included. They include provisions to ensure that the restriction is proportionate for companies entering into liquidation, and that it operates effectively for companies in sectors that are subject to unique tax regimes, such as oil and gas, life insurance and real estate investment trusts.

This loss restriction will raise approximately £765 million in additional revenue over the next five years. An annual allowance of £5 million will apply across both income and capital losses to ensure that small and medium-sized companies are not affected. We estimate that less than 1% of companies will have to pay additional tax as a result of these changes. The change made by clause 25 is to amend the quarterly instalment payment treatment for certain companies with no source of chargeable income, which have a short accounting period resulting from a chargeable gain accruing.

New clause 9, tabled by the SNP, requires a review of the effect of the change to chargeable gains introduced by clause 24 and schedule 3 within two months of the Bill's receiving Royal Assent. The review would focus on the effects of changes on business investment, employment and productivity across different regions of the UK, as well as the effects of various scenarios following the end of the EU transition period, and under circumstances in which the UK signs a free trade agreement with the United States.

The Government's view is that such a review is not necessary. We set out detailed information on the Exchequer macroeconomic and business impacts in 2018, when this policy was first announced, and provided a further update at Budget 2020. Those estimates, which have been certified by the independent Office for Budget Responsibility, confirm that the changes made by the clause are not expected to have any significant macroeconomic impacts. The changes will affect very few companies—about 200 every year, which are likely to be dispersed across the UK. That estimate is not expected to change in any of the EU transitional free trade agreement scenarios set out in the amendment. A further review of the clause would not provide any additional useful information.

This restriction is a proportionate way of ensuring that large companies pay some tax when making substantial capital gains. The review that the new clause would legislate is unnecessary. I therefore urge the Committee to reject new clause 9, and I commend the clauses and the schedule to the Committee.

Wes Streeting (Ilford North) (Lab): It is a pleasure to be here again on such a fine day in the Committee Room, going through some of the more technical elements of the Finance Bill.

We have heard from the Financial Secretary why clause 24 and schedule 3 appear in the Bill. As Members can see for themselves, part 1 of schedule 3—paragraphs 1 to 38—deals with changes required to introduce the corporate capital loss restriction; part 2—paragraphs 39 to 41—introduces changes in the treatment of allowable losses for companies without a source of chargeable income and makes other required minor amendments; and part 3—paragraphs 42 to 46—contains commencement and anti-forestalling provisions for the CCLR.

All in all, schedule 3 comes to 18 pages. I am sure that the Treasury deems them essential, or they would not be in the Bill, but it does seem to run somewhat contrary to

[Wes Streeting]

the Government's stated aim of simplifying the tax system. In case anyone wanted to reach for the explanatory notes for some salvation and solace, even they extend to 10 pages. I do wonder whether it was really necessary, with such a lengthy schedule and explanatory notes, to go into such detail; I guess my question to the Financial Secretary is whether anything can be done to simplify it. As I said, the Government's stated aim is to simplify taxes—they even created the Office of Tax Simplification—but the OTS's job is made much more difficult if, while it is trying to simplify the existing tax code, we are adding reams and reams of clauses to it.

The measure set out in clause 24 and schedule 3 is expected to raise significant revenues in corporation tax from large corporations. That is not something that I will complain about too much—in fact, I am not complaining at all—but a common concern among respondents to the Government consultation was about the timing in relation to our exit from the European Union and in the context of concerns about the impact on UK competitiveness. Although we do not oppose what the Government seek to do, it is important that they address those concerns up front—not least so that when people reply to Government consultations, they know that someone is reading and listening, and that the Government will at least address their concerns even if they do not share them.

Turning to clause 25, I am sure the Financial Secretary will recall that the London Society of Chartered Accountants wrote to the Chancellor on 19 April, copying him in, to raise issues about several clauses of the Bill. Paragraph 13 of that letter states:

"We note that this proposes that a company that would otherwise be 'very large' would be 'large' in the context of the regulations requiring payment of corporation tax in instalments if it is chargeable only because of a chargeable gain on disposal of an asset, but only for APs beginning on or after 11 March 2020. It is obviously aimed at non-resident companies that only come within corporation tax as a result of their new exposure to corporation tax on disposals of UK land and interests in entities that are 'UK land-rich'. A single such disposal would result in the due date being on that one day that the company disposed of the property, so this is a welcome change for any but the largest organisations. However, it is unfortunate that this is not to apply to events before 11 March 2020, where companies have had to rely on a concession by HMRC. In such circumstances, HMRC propose that tax should be paid within 3 months and 14 days after contracts are exchanged unconditionally."

It would be good if the Financial Secretary addressed those concerns in his reply.

We have already heard the Financial Secretary's account of why he thinks the review required by new clause 9—tabled by our colleagues in the SNP, led here by the hon. Member for Glasgow Central—is not necessary. The proposed review of changes to capital allowances

"must consider the effects of the changes on…business investment…employment, and…productivity…The review must also estimate the effects on the changes in the event of each of the following…the UK leaves the EU withdrawal transition period without a negotiated comprehensive free trade agreement…the UK leaves the EU withdrawal transition period with a negotiated agreement and remains in the single market or customs union"—

I will not hold my breath on that one—

"or…the UK leaves the EU withdrawal transition period with a negotiated comprehensive free trade agreement, and does not remain in the single market and customs union."

I understand why the Financial Secretary may not consider such a review necessary in the context of changes to capital allowances, but I would say two things in response. First, clear, widely available and readily understood analysis of the wider context and the wider pressures on the economy, covering issues such as business investment, employment and productivity is absolutely essential. Secondly, the headlines are obviously dominated by the coronavirus and, more recently, by events in the United States, with the murder of George Floyd, and the Black Lives Matter movement protests we have seen on the streets of the UK. However, in the background, as we know, there is the ongoing issue of Brexit, which has almost been forgotten in the national conversation, but which remains one of the single biggest challenges facing our country. The Committee on the Future Relationship with the European Union is hearing from Michel Barnier this week.

Whether Brexit is viewed by Members of the House as an opportunity or a threat, or perhaps a combination of the two, I do not think anyone would dispute that unravelling ourselves from the most sophisticated political and economic alliance in the history of the world is simple or straightforward, or without consequences. We have reached a settled position—to be clear, the official Opposition recognise that settled position—with a referendum and two general elections that have given the Government a mandate to implement the referendum. The question of whether Brexit takes place has been settled by those three democratic events; the question now is how it happens. At the same time, we are in the middle of a global pandemic that, as well as being a public health crisis, threatens to be an economic crisis. We are already in a recession, and the choices the Government make in the coming days, weeks and months, along with the choices they have already made, will shape and determine whether the recession is as short and shallow as we would hope.

I do have a concern when I listen to statements made by Ministers—not so much Treasury Ministers, but certainly Ministers in other parts of the Government, including the Prime Minister and the people around him—that the economic issues and priorities of the country are playing second order to political considerations. That is a terrible mistake. I hope that the Government will take a more stable and orderly approach—if I may borrow a phrase from our former Prime Minister—to some of these choices and issues, and that the Treasury flexes its muscles at all points in conversations with other Departments about the considerations that must be made about our future relationship with the European Union and, indeed, about free trade agreements with other countries, including the United States.

The Financial Secretary may not have a great deal of sympathy for the case made for a review in the context of changes to capital allowances, but I am glad we are having this conversation, because debate in this place is moving too often away from some of the really serious economic challenges that are presenting themselves. We cannot wish those challenges away; we need to make active, sensible and wise choices to ensure that our country emerges from this period of our history with a stronger economy and with greater and more widely shared prosperity than we have today. I hope that that cause is shared by Members right across the House.

Finally on new clause 9, the reason why we table such amendments and new clauses calling for reviews is that that is one of the few ways in which Opposition parties can debate issues on the Finance Bill. In recent years, it seems Ministers—to their shame, actually—have been too frightened and cowardly to allow Finance Bills to be subject to amendments in the way they were traditionally. We no longer have the same freedom and flexibility to propose practical, concrete changes that we might like to see, which strengthen democratic and political debate in Parliament, with Oppositions not just criticising Government, but laying down alternatives so that we can debate their merits versus the Government's approach. So, instead, we call for reviews.

10.30 am

I am not very excited by the prospect of this review or, in fact, any other review that has been proposed by my party or the SNP in amendments to the Finance Bill, but calling for a review is one of the few ways we get to air issues. That is a great shame. It diminishes political debate; it grinds our conversations into the sort of boring, dull and technocratic—worthy, but ultimately dull and technocratic—conversations that we are going to be having today. It also restricts the ability of hon. Members across the House to raise the issues that are regularly raised with us by our constituents.

I know that that has been a source of frustration, to myself, to the shadow Chief Secretary, no doubt to our colleagues in the SNP, and indeed to other hon. Members across the House who are looking to prepare amendments on Report. When we go to the Public Bill Office with ideas, suggestions, proposals or alternatives to the Government's approach, one of the immediate conversations we now have to have is whether amendments are in scope.

Given that we are likely to have another Finance Bill sooner rather than later—probably sooner than we would all wish, and certainly sooner than we will all wish after debating some of these clauses today—I hope the Government will revisit this issue. This point was made by the previous shadow Treasury team, and it is one that we share. I hope the Minister will respond to some of the points I have raised.

Stephen Flynn: Dare I say that I think I am potentially being constructive again in the new clause that the SNP have tabled? We are seeking to allow the Government to open their eyes to what is coming down the track and to look at the impact on business, investment, employment and productivity of a number of different scenarios, be they a comprehensive free trade agreement, remaining in the single market and customs union, not remaining in the single market and customs union, and/or a free trade agreement with the United States.

Ultimately, however, this is not just about helping the Government to see the error of their ways, should they follow the path they are on, but also about reinforcing to hon. Members the huge detrimental impact that leaving the European Union will have on Scotland. Lest we forget, the people of Scotland voted overwhelmingly to remain in the European Union. We are being forced to put forward amendments such as this because the democratic views of the people of Scotland have been disregarded once again by this Parliament.

I will touch briefly on the reality of the situation facing Scotland, because it is incredibly important to the debate we are now having. A new study from the Scottish Government says that, if an extension is not agreed, Scottish GDP could be up to 1.1% lower after two years. That is just in relation to an extension. The cumulative loss of economic activity from leaving the EU would be up to £3 billion over those two years. That is on top of the devastating impact of the current pandemic on the Scottish economy. We will potentially have billions wiped from our economy at a time when we are reeling from the impact of this public health tragedy. That is simply not good enough.

The very notion that a US trade deal will save the day is complete and utter rubbish. Analysis from the Scottish Government highlights that the loss of friction-free trade with the EU would lower GDP by 6.1% by 2030. Analysis by the UK Government shows that a free trade agreement with the US would increase UK GDP only by up to 0.16%. Those are remarkable figures, which we all need to consider in full. The reality is that the reckless approach of the UK Government in potentially losing full access to the European single market will have a devastating impact on Scotland's economic growth and prosperity. It also puts in jeopardy many of our key priorities: the NHS, upholding food standards and tackling the climate emergency.

Lowering standards is perhaps a topical subject to touch on, because we have all read with interest comments in the press over recent weeks about the impact of lowering food standards on imports of food into the United Kingdom. We are proud of Scotland's agricultural sector and the produce we create, which is world renowned for its class. We cannot under any circumstances have a situation where the quality of that produce is impacted by the decisions of the UK Government, particularly when those decisions will be made on the back of something we did not vote for. I cannot emphasise that enough to Members. Whether it is chlorinated chicken, selling off the NHS to Donald Trump or simply trying to bring down the tariffs on Scotch whisky, the UK Government have shown they are incapable of meeting the needs of the people of Scotland, and I have grave concerns about what is coming down the line.

As I say, the new clause we have tabled today is constructive, because it would allow the UK Government's eyes to be opened to the reality of the situation facing Scotland. If they are true in their comments about believing that Scotland is a key part of the United Kingdom, and Scotland should lead and not be led, they will hopefully bear the new clause in mind.

I will finish by touching on the comments of the hon. Member for Ilford North, who rightly said that, for many, Brexit has been forgotten about. Well, for people in Scotland it has not been forgotten about, because we overwhelmingly do not support it. Rightly, the pandemic—overcoming it and ensuring that lives are saved—is the focus of all our priorities at this moment, but we know what is coming down the line and we are fearful. Up until now, none of the mood music coming from the UK Government has offered any reassurance whatever. Hopefully, the figures I have highlighted in relation to a United States trade deal will re-emphasise the reality of the situation to the Government.

I said I would finish, but that was perhaps a fib, because there is one further comment I wish to touch on. I apologise if I get a word or two wrong, but the

[Stephen Flynn]

Minister said that the new clause would not provide "any useful information", and I am astounded at that. I thought that a UK Government Minister would want to know about the impact on productivity of the decisions that the UK Government may take. I thought a UK Government Minister would want to know about the impact on employment of the decisions taken on business productivity, but it appears not. It appears that wilful ignorance is the story of the day, which is not a good thing. The people of Scotland will pay close attention to the actions of the UK Government moving forward, as they have up until now.

The Chair: I call the Minister to respond.

Jesse Norman: I would not have dreamt of not responding to the concerns raised by Members of the Opposition, and I am grateful to you, Mr Rosindell, for allowing me to do so.

The hon. Member for Ilford North mentioned the simplification of the tax system and asked whether the measures before us could be regarded as a simplification. He is absolutely right that simplification of the tax system is a highly desirable thing. In this case, without getting too far removed from political business, it seems there is a parallel to some of the work done by Thomas Kuhn on how science proceeds, where he distinguishes between times in which normal science proceeds, as it were, in a normal fashion and times when there is a paradigm shift and everything changes. Often, the effect of a paradigm shift is to create a moment of radical simplification to a system that was becoming overly complex in its theoretical analysis before. That was the effect of Copernicus on the Ptolemaic system, and of Newton on pre-Newtonian physics. There may well come a case, as in the past, where this Government or their successor decide on a radical tax simplification, but while we are in the world of existing tax, that is not the world we are talking about.

The hon. Gentleman should be pleased to know that these measures have been regarded within the profession as the model of how to achieve effective tax legislation— that is not always the case with Government legislation. There is a nice quote in the *Tax Journal* for 5 December 2018:

> "The corporate capital loss restriction is a good example of how to produce effective legislation. The consultation will enable draft legislation to be produced for publication in December 2019. This will be subject to technical consultation ahead of its inclusion in the Finance Bill 2020. This allows time for the profession to work with HMRC to iron out the inevitable teething troubles."

That is right. As I have identified, there were essentially two periods of consultation: one on policy design and, in due course, more technical consultation on draft legislation. That work is what is reflected in this piece of legislation. I hope I have reassured the hon. Gentleman on that front.

The hon. Gentleman raised a question about competitiveness. He will know that the components of competitiveness are many and various. It is not immediately obvious why the treatment of capital for capital losses should have any huge or certainly immediate competitive effect. We are talking, lest it be forgotten, about a measure that is likely to have an effect on some 200 companies. Some of them may be large, but this is a very small proportion of the overall corporate world in which we live. It is also worth saying that, even after this change, the system that remains is significantly more generous in some crucial respects than the system in many other countries that are our notional international competitors.

The hon. Gentleman raised the question of whether the Government are disallowing adequate challenge to the Bill. I would say that one man's meat is another man's poison, one woman's meat is another woman's poison and so on. The effect of having this structure to the Bill is that, as we grind through these clauses—I apologise to colleagues if it is a grind—and give them the detailed consideration that this Parliament would expect with its history of scrutinising tax, that is now being done under a system in which non-charging measures are covered by individual resolutions. That is an increase in clarity and, I think, very much to be welcomed.

The hon. Member for Aberdeen South talked vigorously about what he sees as the democratic views of the people of Scotland. May I remind him of a few facts? Scotland had a referendum in 2014 in which, I am pleased to say, a substantial majority was in favour of remaining part of the Union. In so doing, Scots reflected the wisdom of arguably one of Scotland's greatest thinkers, Adam Smith, when he said that the Union with England was a measure from which infinite good had derived to Scotland. How right Smith was. Of course, it would overturn the settled convention that referendums take place once in a generation, and, to that extent, it would be a denial of the democratic basis of referendums, to have another in a shorter time period.

May I also remind the hon. Gentleman that it was extraordinarily lucky in many ways that the Scots were, as I trust they will always be, wise enough to see their future within the Union, because when crisis struck, and the oil and gas industry were completely clobbered and the oil price fell, that would have cut an enormous hole in the GDP of an independent Scotland, which disastrous economic outcome was avoided by Scotland's ability to work with and benefit from its position within the Union? The same will be true under coronavirus, given the different exposures that the Scottish economy has to sectors affected by the economic downturn.

10.45 am

It is also worth saying that the Government have provided a very substantial amount of money to support Scotland during the coronavirus; at least £3.7 billion has been given to the Scottish Government from measures introduced in the Budget and subsequently. That is in addition to a very large amount of money provided through UK-wide measures such as the coronavirus job retention scheme, the self-employment scheme and the bounce back loan scheme. It is that sense of collective strength that our Union has always reflected and I trust will continue to reflect.

Having expressed that sentiment, let me encourage the Committee to support the clause and reject the new clause, not because the Government in any sense wish not to receive scrutiny but because such scrutiny is already very well exercised through other channels.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Schedule 3 agreed to.

Clause 25 ordered to stand part of the Bill.

Clause 26

Relief from CGT for loans to traders

Question proposed, That the clause stand part of the Bill.

Jesse Norman: This is a very small and technical measure that widens the scope of capital gains tax relief in respect of loans to traders, so that from 24 January 2019 it applies to loans made to traders located anywhere in the world and not just in the United Kingdom.

Relief for loans to traders is available where a loan is made to a UK company, sole trader or partnership, for the purposes of a continuing trade, profession or vocation, or for the setting up of trade, but then the loan subsequently becomes irrecoverable. The relief allows a person to write off the loss against chargeable gains.

The UK has now left the EU and has agreed to follow its rules for the duration of the transition period. On 24 January 2019, the European Commission issued a reasoned opinion, arguing that the existing legislation for relief of loans to traders contravened the free movement of capital principle. The Government accepted that the legislation, as drafted, was too narrow, and agreed to introduce legislation to expand the rules and to comply with that principle.

The change made by clause 26 widens the relief, so that it applies to qualifying loans made to businesses worldwide and not just in the UK. The proposed changes are not expected to have any significant impact on the Exchequer, due to the small number of people making these loans. Loans of the type covered by this relief are often risky, making them unattractive to many investors. Widening the geographical scope of the relief will not make such loans less risky, but it will give UK-based investors a remedy should an overseas investment be lost. Draft legislation setting out this change was published during the summer and no comments were received.

The Government consider that this legislation is appropriate for supporting overseas investment opportunities for UK-based investors and for meeting our residual obligations to the European Union. I therefore commend the clause to the Committee.

Wes Streeting: Earlier, the Financial Secretary described our proceedings as “a grind for some”. How could it possibly be a grind when we were treated to such a fascinating history lesson as the one he gave at the end of the debate on the last group? However, I am not sure that invoking the economic lessons of Adam Smith will be enough to persuade the hon. Member for Aberdeen South of the case for the Union. Indeed, I am not sure that it would persuade me of the case for the Union. I will return to reading the books by our esteemed former Prime Minister, Gordon Brown, and I will leave it to my hon. Friend the Member for Edinburgh South (Ian Murray) to lead the charge in making the case for the Union. That might be more persuasive to the people of Scotland than the history lesson given to us by the Financial Secretary.

We are all learning new things this morning. In fact, the hon. Member for Aberdeen South has learned that, in this place, the words “and finally” are generally a statement of intent rather than a binding commitment. I am sure that on many occasions I have used the words “and finally” more often than once.

The Financial Secretary described clause 26 as very small and technical, and I suppose that is true to an extent. As we have heard, relief for loans to traders is a capital gains tax relief; it gives relief where a loan is made to a UK company, sole trader or partnership for the purposes of an ongoing trade, profession or vocation or the setting up of trade, and the loan subsequently becomes irrecoverable. To qualify for the relief, the loan must be to a borrower who is resident in the UK and who uses the money wholly for the purposes of a trade, profession or vocation or to set up trade, as long as they start trading. Relief is due only if there is no reasonable prospect of the loan ever being repaid.

Who can argue with any of that? The clause is technical and straightforward, and the Financial Secretary has made the case for it. Only towards the end of his speech did we hear that the purpose of the clause—please shut your ears, Mr Rosindell—is to extend the relief to borrowers outside the UK, which will ensure that the relief complies with article 63 of the treaty on the functioning of the European Union, and with the rules on the free movement of capital.

I thought we might have a bit of fun dwelling on that for a moment, because we are locked in negotiations on our exit from the European Union. I am sure it was not meant to be sneaky—Ministers would never be sneaky—but at the end of the Financial Secretary’s speech on the clause, he briefly mentioned that it was about bringing ourselves into alignment with European Union law. It is curious that we are trying to negotiate our exit from the European Union at the same time that we are passing domestic law to bring ourselves into alignment. The Government have begun their fourth round of trade negotiations with the European Union; the process is far from complete. With the Government’s self-imposed December deadline looming, it appears there is nothing that the Government are not willing to sacrifice for their ambition to get Brexit done.

In the light of that, I am curious about whether the Government intend for the alignment to be permanent, or whether it will be a measure from which they wish to diverge in the future. I wonder what other rules we are planning to align with at the same time as we are planning divergence, and I wonder how the Government are weighing up the case for alignment and the case for divergence. The clause is designed to align the UK with EU trade regulations and EU laws, which reveals an uncomfortable reality at the heart of the Government’s strategy: no matter how much they might claim that Brexit means Brexit and that we can shirk our obligations, we know that the continuing harmonisation of laws and rules will continue within the European Union, and that, over the course of our future relationship with the European Union and with any future trade agreement with any third party, there will always be compromise, choices, trade-offs, harmonisation, agreement to abide by the same rules, and a mechanism for dispute regulation.

I certainly do not wish to re-fight the battles of the past. As I have already said, we accept that this question is settled. We have left the European Union. The only question now is about our future relationship. However, in the same way that the Government have recognised, through the clause, that we have obligations to meet, and that doing so is in the interests of businesses here in the UK—as a principle, it does not apply only to businesses, but in this case we are talking about the

[Wes Streeting]

capital gains tax relief that will benefit different types of businesses—it is important that we acknowledge that, in our future relationship, there may well be instances in which it is in our national interest to align with the European Union, or to persuade the European Union to align with us.

Going back to my previous remarks, it seems to me that there has been far too much dogma in the debate, and far too much emphasis on demonstrating, in a robust and visible way, that we have left, almost as though divergence is a point of principle and a good in and of itself. There may be opportunities and occasions on which my Opposition colleagues and I might see divergence from a particular approach taken by the European Union as an opportunity presented by Brexit, and there may be occasions, particularly in the context of debating our domestic tax affairs and economic policies, in which opportunities might present themselves, and we might propose courses of action that otherwise might not have been possible as members of the European Union. However, there will be occasions when alignment with the European Union and its approach is in our national interest, and the Government should be brave enough to say so.

I think that most people in this country, whether they voted leave or remain, would accept that there are lots of occasions when a deep partnership with the European Union would be in our interest. Indeed, reflecting on the conversations that we had during the referendum and since, it seems to me that one of the least concerns that people had about the European Union was the notion that we had an economic partnership. My constituency split pretty much down the middle on Brexit, so I have the opportunity to speak to people who voted leave and remain all the time, which I find insightful, instructive and enriching. I find that, when people reflect back on our membership of the European Union, one of their least concerns was about the economic relationship and the notion that it was a free-trade bloc and a trading partnership. In fact, one complaint that I got from lots of leave voters who were voting leave because of concerns about sovereignty is that it had become too much of a political project and not so much an economic one.

I hope that, as the Government scope out their policies, and as the Treasury seeks to influence other Departments and to restore some sense of reality and grounding in some of the economic considerations of our future relationship, people right across Government bear that in mind, and that we do not end up cutting off our nose to spite our face. This country already had a number of underlying structural problems with our economy that we needed to address—slow growth over the last decade, weak productivity and the extent to which our country is divided, not only in the economic gap between the wealthiest and poorest but in the regional, place-based economic inequalities across our country.

There are lots of issues for us to deal with, but I fear that our job is being made even harder by the covid-19 crisis and its obvious impact, and I fear that the job of tackling those problems will be made harder still if we make unwise decisions about our future relationship based on political and ideological dogma, rather than on the economic considerations. I hope that message will be taken back to the Treasury.

Jesse Norman: I am keenly aware of the 11 o'clock minute's silence, and I wish to respect that, so I will keep my remarks short. The hon. Gentleman will be aware that my consideration of the EU in my speech was probably 40% to 45%, rather than a concluding thought. I am glad he recognises that opportunities will emerge after we have left the EU, and I am sure he is right that there will be cases in which we should wish to align with it on a sovereign basis.

The Chair: Order. At 11 o'clock, I will suspend the sitting for a minute's silence. The bell will ring at that point. I propose we do not proceed with any further discussions until after the minute's silence. Please be upstanding.

11 am

The Committee observed a minute's silence.

Question put and agreed to.

Clause 26, accordingly, ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(David Rutley.)*

11.1 am

Adjourned till this day at Two o'clock.